

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

DAVID WHITT,

PLAINTIFF,

v.

CITY OF ST. LOUIS, et al.,

DEFENDANT.

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Case No. 4:18-CV-01294

**MOTION TO DISMISS COUNT VIII**  
**BY DEFENDANT LINHORST**

COMES NOW Defendant Officer Ryan J. Linhorst (“Defendant”), through counsel, and moves this Court to dismiss this action against him for failure to state a claim upon which relief can be granted under Federal Rule of Civil Procedure 12(b)(6). In support, Defendant states the following:

1. Plaintiff fails to state a claim in Count VIII against Defendant upon which Plaintiff may obtain relief from this Court or any other. Fed. R. Civ. P. 12(b)(6).
2. Taking Plaintiff’s allegations against Defendant as true, and construing those allegations in a light most favorable to Plaintiff, Plaintiff still fails to sufficiently allege facts entitling Plaintiff to relief. *Kottschade v. City of Rochester*, 319 F.3d 1038, 1040 (8th Cir. 2003).
3. Defendant submits herewith a memorandum in support of his motion, which sets out the relevant arguments and citations to authority on which Defendant rely.

WHEREFORE, Defendant prays the Court grant his Motion to Dismiss for Failure to State a Claim with prejudice, and for any further relief the Court deems just and reasonable.

Respectfully Submitted,

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CITY COUNSELOR

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**CERTIFICATE OF SERVICE**

I hereby certify the foregoing was electronically filed on September 14, 2018 with the Court for service by means of Notice of Electronic Filing upon all attorneys of record.

/s/ Abby Duncan